

REMARKS

Prior to entry of this amendment, claims 12-22 are pending, claims 1-11 having been withdrawn in Response to the Restriction requirement of October 28, 2004.

Applicant appreciates the Examiner's indication of allowable subject matter in claims 16, 17, 19 and 21.

By this amendment, claims 12, 13, 16, 19 and 21 are amended. No new matter is added. Thus, claims 12-22 are presented for examination.

Favorable reconsideration of this application is respectfully requested in view of the foregoing amendments and following remarks.

Objection to the Specification

In the Office Action mailed February 10, 2005, the title and abstract were objected to. A new title and abstract are presented responsive to this objection. If any additional amendment is necessary to overcome these objections, the Examiner is requested to contact the Applicant's undersigned representative.

Objection to Claim 13

In the Office Action mailed February 10, 2005, claim 13 was objected to for informalities. Claim 13 has been amended responsive to this objection. If any additional amendment is necessary to overcome this objection, the Examiner is requested to contact the Applicant's undersigned representative.

Claims 12, 14, 15, 18, 20 and 22 Recite Patentable Subject Matter

In the outstanding Office Action, claims 12, 14, 15, 18, 20 and 22 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No.: 6,249,014 to Bailey (hereinafter, "Bailey"). Claim 13 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Bailey, since claim 13. It is noted that claims 12 and 13 have been amended. To the extent that the rejections remain applicable to the claims currently pending, Applicant hereby traverses the rejections, as follows.

Independent claim 12 is directed to a memory, which includes, among others, a feature of a first electrode film which inhibits oxygen diffusion. Thus, as disclosed in the specification as filed, for example, at p. 19, lines 4-8, the first electrode film functions as an oxygen barrier film inhibiting oxygen from diffusion. Bailey neither discloses nor suggests a first electrode film which functions as an oxygen barrier film inhibiting oxygen from diffusion.

To qualify as prior art under 35 U.S.C. §102, a single reference must teach, i.e., identically describe, each feature of a rejected claim. Moreover, to establish *prima facie* obviousness of a rejected claim, the applied art of record must teach or suggest each feature of a rejected claim. See M.P.E.P. §2143.03. As explained above, Bailey neither discloses nor suggests each and every feature of independent claim 12. Thus, Applicant respectfully submits that independent claim 12 is neither anticipated nor rendered obvious by Bailey. Accordingly, Applicant respectfully submits that independent claim 12 is allowable over Bailey.

Claims 13-15, 18, 20 and 22 depend from claim 12. Thus, it is respectfully submitted that claims 13-15, 18, 20 and 22 are allowable for the same reasons as claim 12, as well as for the additional subject matter recited therein.

In view of the above, withdrawal of the rejections of claims 12, 14, 15, 18, 20 and 22 under 35 USC § 102(b) and claim 13 under 35 USC § 103(a) are respectfully requested.

Claims 16, 17, 19 and 21 Recite Patentable Subject Matter

Claims 16, 17, 19 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 16, 19 and 21 have been amended to be in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, claims 16, 19 and 21 are in condition for allowance.

Claim 17 depends from claim 16. As such, claim 17 is allowable for the same reasons as claim 16, as well as for the additional subject matter recited therein.

Withdrawal of the objection to claims 16, 17, 19 and 21 is respectfully requested.

Conclusion

For all of the reasons set forth above, Applicants submit that claims 12-22 are patentably distinct over the applied art of record and in condition for allowance.

Accordingly, reconsideration of the application, withdrawal of the outstanding objections and rejection, and the prompt issuance of a Notice of Allowability are earnestly solicited.

Should the Examiner determine that any further action is necessary to place this application into condition for allowance, the Examiner is invited to contact the applicant's undersigned representative at the telephone number listed below to expedite resolution of any outstanding issues.

In the event this paper is not considered to be timely filed, Applicants hereby petition for an appropriate extension of time. The Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment associated with this communication to Deposit Account No. 01-2300 referencing client matter number **024808-00019**.

Respectfully submitted,

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